

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	No.: 16-cr-10305-NMG
)	
MARTIN GOTTESFELD)	

MOTION FOR LEAVE TO WITHDRAW

Counsel for defendant Martin Gottesfeld (“Mr. Gottesfeld”) moves this Honorable Court for leave to withdraw prior to sentencing. As grounds, counsel states the following.

Between June 28, 2018 and July 17, 2018, counsel filed three separate motions for leave to withdraw.¹ Dkt. Nos. 214, 241, 254. Each motion attached separate exhibits filed *ex parte* and under seal. At the time of each filing, jury selection was scheduled for July 19, 2018 with the trial scheduled for July 23, 2018. Each motion to withdraw was denied; the Court cited the impending trial as a reason for denial. See Dkt. No. 248 (“While Mr. Grimaldi is acting appropriately under the rules of professional conduct in seeking permission to withdraw, such permission is not automatic, *particularly on the eve of trial* and in instances of court-appointed counsel.”) (Stearns, J.) (emphasis supplied).

Jury selection and trial commenced as scheduled. On August 1, 2018, the jury convicted Mr. Gottesfeld. A sentencing hearing is scheduled for November 14, 2018.

Counsel continues to have an actual conflict of interest with Mr. Gottesfeld, requiring withdrawal under the Rules of Professional Conduct. Mass. Sup. Jud. Ct. R. 3:07, R. Prof. Conduct 1.16(a)(1); 1.7(a)(2). Further, the attorney-client relationship is broken and withdrawal

¹ Counsel filed a prior Motion for Leave to Withdraw on June 1, 2018. Dkt. No. 195. However, that motion was filed at the specific request of Mr. Gottesfeld and concerned matters of a different nature than the three motions filed between June 28 and July 17, 2018. The June 1, 2018 motion was denied on June 4, 2018. Dkt. No. 197.

is appropriate for reasons recognized by the Rules of Professional Conduct. R. Prof. Conduct 1.3, 1.16(b)(2), (4), (6), and (7).

In support of this motion, counsel incorporates by reference the exhibits filed *ex parte* and under seal in his previous relevant motions to withdraw, Dkt. Nos. 214, 241, 254. Further, counsel attaches one exhibit to this motion filed *ex parte* and under seal.

Since there is no longer a pending trial, the Court should now grant counsel's motion for leave to withdraw.

Further, counsel has discussed this motion with Mr. Gottesfeld. Mr. Gottesfeld assents to the motion so long as he is provided new counsel (and not ordered to represent himself *pro se*) and the change of attorneys does not delay future proceedings, including but not limited to his sentencing hearing.

Counsel respectfully requests a hearing on this motion.

Respectfully submitted,
Counsel for defendant:

/s/ David J. Grimaldi

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DATE: August 31, 2018

CERTIFICATE OF SERVICE

I, David J. Grimaldi, hereby certify that true copies of this motion were served on all registered participants via CM/ECF this 31st day of August, 2018. Further, on this day a copy of this motion was mailed to defendant Martin Gottesfeld at the Plymouth County Correctional Facility, 26 Long Pond Road, Plymouth, MA 02360. As the exhibit is filed under seal and *ex parte*, that item has not been served at this time.

/s/ David J. Grimaldi

David J. Grimaldi